

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KEITH ADAIR DAVIS,

Plaintiff,

v.

WASHINGTON STATE
DEPARTMENT OF CORRECTIONS,
et al.,

Defendants.

CASE NO. 3:16-CV-05129-BHS-DWC

ORDER WITHDRAWING REPORT
AND RECOMMENDATION AND
DIRECTING DEFENDANTS TO FILE
ADDRESSES UNDER SEAL

The District Court has referred this action, filed pursuant to 42 U.S.C. § 1983, to United States Magistrate Judge David W. Christel. Plaintiff Keith Adair Davis filed an “Amended Motion and Declaration for Summons for Defendants who Disappeared from WCC” (“Motion”). Dkt. 54. After reviewing the Motion and relevant record, the Court withdraws the October 24, 2016 Report and Recommendation (Dkt. 50) and grants the Motion (Dkt. 54). The Court directs Assistant Attorney General Jerry Patrick Scharosch to file the last known addresses for Defendants Donald MacWilliam and Dale Robertson.

ORDER WITHDRAWING REPORT AND
RECOMMENDATION AND DIRECTING
DEFENDANTS TO FILE ADDRESSES UNDER
SEAL - 1

1 On July 11, 2016, the Court directed service of Plaintiff's Amended Complaint on the
2 named Defendants. Dkt. 13. The Clerk's Office mailed the Amended Complaint and waiver of
3 service forms to each Defendant. However, the mailings sent to Defendant D. MacWilliam and
4 Dale Robertson were returned to the Court as undeliverable. Dkt. 16, 17.

5 On September 1, 2016, Plaintiff was directed to provide the complete address for
6 Defendants MacWilliam and Robertson by October 3, 2016 so the Court could again attempt
7 service by mail. Dkt. 45. The Court notified Plaintiff failure to provide the names and addresses
8 for Defendants MacWilliam and Robertson would result in the Court recommending dismissal of
9 these Defendants from this action for failure to prosecute. *Id.*

10 Plaintiff failed to provide the Court with the requested addresses and, on October 24,
11 2016, the Court recommended Defendants MacWilliam, Robertson, Jane Does 1-10, and John
12 Does 1-15 be dismissed without prejudice from this action for Plaintiff's failure to prosecute.
13 Dkt. 50. On November 9, 2016, Plaintiff filed the Motion, requesting the Court order the
14 Department of Corrections to provide the location of Defendants MacWilliam and Robertson.
15 Dkt. 54. Plaintiff states he cannot obtain their addresses because he does not have access to the
16 internet or telephone and does not receive assistance from the King County Jail, where he is
17 housed. *Id.* He also states he sent letters to Department of Corrections headquarters and
18 Washington Corrections Center –personnel department, but received no response. *Id.*

19 Because Plaintiff has shown he attempted to obtain the addresses of Defendants
20 MacWilliam and Robertson, the Court withdraws its October 24, 2016 Report and
21 Recommendation (Dkt. 50). The Court grants Plaintiff's Motion (Dkt. 54) as follows: Attorney
22 Scharosch is directed to file the last known addresses for Defendants MacWilliam and Robertson
23 under seal on or before December 23, 2016 so the Court can again attempt service on these two
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1 Defendants. This solution alleviates two concerns involving prisoner litigation: (1) the security
2 risks inherent in providing prisoners with addresses of people formerly employed by the state;
3 and (2) the reality of prisoners getting the “runaround” when they are attempting to access
4 information through the government. *See Sellers v. United States*, 902 F.2d 598, 602-603 (7th
5 Cir. 1990).

6 Defendants MacWilliam and Robertson may also satisfy this Order by filing waivers of
7 service and by having counsel enter a notice of appearance on their behalf.

8 Dated this 2nd day of December, 2016.

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11 David W. Christel
12 United States Magistrate Judge
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